IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.4456 OF 2005

Kisan Whagu Sathe ..Petitioner.
Vs.
The Collector, Pune & Ors. ..
Respondents.

WITH
WRIT PETITION NO.4458 OF 2005

Eknath Shivram Sathe ..Petitioner.
Vs.
The Collector, Pune & Ors. ..
Respondents.

WITH
WRIT PETITION NO.4460 OF 2005

Kashinath Waghu Sathe ..Petitioner.
Vs.
The Collector, Pune & Ors. ..
Respondents.

WITH
WRIT PETITION NO.4461 OF 2005

Balu Baban Sathe ..Petitioner.
Vs.
The Collector, Pune & Ors. ..
Respondents.

WITH
WRIT PETITION NO.4462 OF 2005

Narayan Vithoba Sathe ..Petitioner.

Vs.
The Collector, Pune & Ors. ..
Respondents.

WITH
WRIT PETITION NO.5003 OF 2005

Ashok Appasaheb Sathe & Ors. ..Petitioner.
Vs.
The Collector, Pune & Ors. ..
Respondents.

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Mr. V.B. Naik with Mr. Tejas Deshmukh for the petitioners.
Mr. V.P. Malvankar, AGP for Respondent Nos.1 and 2.
Ms. Deepa Chavan i/b M/s. Little & Co. for Respondent No.3.
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CORAM : A.P.SHAH &
DR.D.Y.CHANDRACHUD, JJ.

2nd September, 2005.

P.C. :

1. The Petitioners whose lands have been acquired under the provisions of the Maharashtra Industrial Development Act 1961 (the 'MID Act 1961') have prayed for a direction to the Respondents to initiate an inquiry under Sections 33(3) and 33(5) for the purposes of the determination of compensation. Section 33 (1) provides that where any land is acquired by the State Government under the provisions of Chapter VI, the State Government shall pay for such acquisition compensation which

shall be determined in accordance with the provisions of that Section. Sub-section (2) provides that where the amount of compensation has been determined by an agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement. However, where no such agreement can be reached, the State Government is required by sub-section (3) of Section 33 to refer the case to the Collector for determination of the amount of compensation to be paid for such acquisition as also the person or persons to whom such compensation shall be paid.

2. The State Government issued a notification in respect of certain lands falling in village Mann including those of the Petitioners notifying that the provisions of Chapter VI of the MID Act, 1961 would be applicable to the said area, on 26th June, 2001. The State Government issued a notification under Section 32(2) on 13th September, 2001. A notification under Section 32(1) was published in the official gazette on 6th August, 2004. Possession is stated to have been taken on 10th May, 2005.

3. In the present batch of cases, counsel appearing on behalf of

MIDC, the Third Respondent, has stated before the Court that no agreement has been reached as between MIDC and the Petitioners. In that view of the matter, the State Government is required to refer each case to the Collector for the determination of the amount of compensation under the provisions of sub-section (3) of Section 33. The State Government is directed to make a reference to the Collector within a period of two weeks and the Collector shall determine the amount of compensation in accordance with law within a period of 12 weeks.

4. In the affidavit in reply filed on behalf of MIDC it has been stated that meetings were held on 12th August, 2004 and 19th August, 2004 at which, having regard to the sales statistics pertaining to the period of five years preceding the date of the notification under Section 32(2), the rates mentioned in the ready reckoner, the zoning in the regional plan pertaining to the lands under acquisition and the potential of land in that area and other factors contemplated under the statutory provision, the State agreed to pay an amount of Rs.17.50 lacs per hectare to those persons whose lands were acquired. 613 out of 718 villagers are stated to have agreed to the payment of compensation at that rate.

MIDC has offered to pay compensation at the rate of Rs.17.50 lacs per hectare. The State Government has in the agreements which have been arrived at with certain landholders accepted that the aforesaid amount is, according to it, fair compensation for the lands under acquisition. There is no reason why the State Government should not be directed to pay compensation at the aforesaid rate to the Petitioners subject to final adjustment in accordance with the award that may be passed by the Collector. The Government of Maharashtra has issued a circular dated 16th August, 1968 which provides that if no agreement is reached under the provisions of Section 33(3) of the MID Act, 1961, the Special Land Acquisition Officer will have to pay advance compensation on an ad hoc basis and thereafter submit the cases to the Government under Section 33(3) of the Act for reference to the Collector for determining compensation. This is clarified and confirmed in subsequent circulars dated 29th October, 1969 and 4th April, 1970. In the present case, it has been stated by counsel for MIDC that MIDC has deposited the entire compensation with the State Government . In the circumstances, the State Government is directed to disburse within six weeks compensation computed on the basis of a rate of Rs.17.50 lacs per hectare as ad hoc interim

compensation subject to adjustment in terms of the award that will be passed by the Collector.

The Petitions are accordingly disposed of.